

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 125

Conveyance of Bodies Into or Out of the State

SPONSOR(S): Nehr

TIED BILLS:

IDEN./SIM. BILLS: SB 414

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	<u>Military & Local Affairs Policy Committee</u>	<u>12 Y, 1 N</u>	<u>Nelson</u>	<u>Hoagland</u>
2)	<u>Health Care Regulation Policy Committee</u>	<u></u>	<u></u>	<u></u>
3)	<u>Public Safety & Domestic Security Policy Committee</u>	<u></u>	<u></u>	<u></u>
4)	<u>Economic Development & Community Affairs Policy Council</u>	<u></u>	<u></u>	<u></u>
5)	<u>Policy Council</u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

Florida law makes the sale or purchase, and transmission or conveyance of a body or body parts outside the state (except by a recognized Florida medical or dental school), a misdemeanor of the first degree. Any person, institution or organization that conveys bodies or parts of bodies into or out of the state for medical education or research purposes must notify the University of Florida Health Science Center's anatomical board of their intent and receive approval from the board.

This bill permits institutions or organizations accredited by the American Association of Museums to convey plastinated bodies into or out of the state for exhibition and educational purposes without the consent of the board if the institution or organization notifies the board regarding the duration and location of the exhibition at least 30 days before the intended conveyance, and provides documentation that the bodies were legally donated for the purpose of plastinization.

The bill does not appear to have a fiscal impact.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives:

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Florida's Anatomical Board

Part II of ch. 406, F.S., regulates the disposition of dead bodies. Section 406.61, F.S., makes the sale of a body or body parts a misdemeanor of the first degree. It also makes the transmission or conveyance of a body or body parts to a place outside the state—except by a recognized Florida medical or dental school—a misdemeanor of the first degree. A person, institution or organization that conveys bodies or parts of bodies into or out of the state for medical education or research purposes is required to notify the anatomical board located at the University of Florida College of Medicine's Health Science Center¹ of such intent and receive approval from the board.

The board is comprised of representatives from the various Florida colleges of medicine.² Its stated mission is to supply anatomical materials for teaching and research programs in Florida. Section 406.56, F.S., provides that an individual may execute a will donating his or her body to the board, and that the board is empowered to accept the body if the person dies within the geographical limits of the state. The board provides these donated bodies for the training of physicians, dentists, physician assistants, and other health workers, and supports research and continued and advanced training programs for physicians.³

Plastination of Bodies

“Plastination” or “polymer preservation” is a technique used to preserve bodies or body parts that was developed in the 1970s. The water and fat are replaced by certain plastics, yielding specimens that can be touched, do not decay, and retain most microscopic properties of the original sample. A specimen can be anything from a full human body to a small piece of an animal organ. Once plastinated, specimens and bodies can be manipulated and positioned.⁴ Bodies that have been preserved via this

¹ Section 406.50, F.S.

² http://www.fdle.state.fl.us/cjst/mec/nov2007_mec_mtg/Anatomical Board Information.pdf.

³ <http://www.med.ufl.edu/anatbd/>.

⁴ <http://en.wikipedia.org/wiki/Plastination>.

method have been used for teaching anatomy for several decades. In recent years, plastinated human bodies and body parts have been featured in museum exhibits. These exhibits have been acclaimed for their scientific and educational contributions, while drawing criticism from medical ethicists, and condemnation by various religious groups.

The Florida anatomical board first considered the issue of plasticized bodies in 2005 when it denied the Tampa Museum of Science and Industry (MOSI) a permit to transport body parts into the state for an exhibition entitled "BODIES: The Exhibition." There was significant controversy surrounding the exhibit, with allegations that some of the bodies were Chinese prisoners (political or otherwise), that others were executed prisoners, that the bodies were paid for, and that bogus "consents" from family members were the product of forgery or coercion.

In a letter to the anatomical board, the Florida Attorney General opined that approval of the board was required for such an exhibition, noting that "educational relevance" was listed as one of the purposes of the exhibit on its website. He noted that while s. 406.61, F.S., specifically refers to "medical education," this law does not limit that education to medical students.⁵

When the board approves the conveyance of bodies or body parts into or out of the state for medical education or research purposes, it ensures that the purpose is appropriate, and that a body or any parts were obtained from donors who consented or whose family consented to the use.⁶ Accordingly, the board attempted to elicit evidence that the donors of the bodies or their families had consented to the use of the bodies in the Tampa exhibit, but were unable to secure proof. The MOSI ignored the board's ruling and continued with the display. Subsequently, the Attorney General and local law enforcement declined to take action.⁷

Presently, the Mary Brogan Museum of Art and Science in Tallahassee is hosting a similar exhibit, "OUR BODY...The Universe Within." The producer of the exhibit indicates on its website that all of the anatomical specimens contained in the exhibit originate from China and have been provided for the exhibit "consistent with the laws of China." The anatomical specimens are not owned by the exhibitor, but provided by a Chinese foundation. While the producer does not have the specific identity of each anatomical specimen, it maintains that the bodies have been donated through medical schools and other research facilities in China to promote education, science and medical research.⁸

The American Association of Museums

The mission of the American Association of Museums (AAM) "is to enhance the value of museums to their communities through leadership, advocacy and service." According to the AAM's website, it is the only organization representing the entire scope of museums and professionals and nonpaid staff who work for and with museums. It currently represents more than 15,000 individual museum professionals and volunteers; 3,000 institutions; and 300 corporate members. Individual members span the range of museum occupations, including directors, curators, registrars, educators, exhibit designers, public relations officers, development officers, security managers, trustees and volunteers. Every type of museum is represented including art, history, science, military and maritime, and youth museums, as well as aquariums, zoos, botanical gardens, arboretums, historic sites, and science and technology centers.⁹

⁵ http://myfloridalegal.com/_852562220065EE67.nsf/0/86A1D427312C3F8F8525705B0060F0F6?Open&Highlight=0,bodies,the,exhibition.

⁶ February 9, 2009, e-mail from Susan Collingwood, Senior University Counsel for Health Affairs, University of Florida.

⁷ February 5, 2009, e-mail from Susan Collingwood, Senior University Counsel for Health Affairs, University of Florida, noting that the board itself does not have enforcement powers.

⁸ http://www.ourbodytheuniversewithin.com/news_media.html.

⁹ <http://www.aam-us.org/aboutaam/index.cfm>.

Through its Accreditation Commission, the AAM evaluates museums for accreditation based on program standards and requirements. To participate in the AAM Accreditation Program, a museum must:

- be a legally organized nonprofit institution or part of a nonprofit organization or government entity;
- be essentially educational in nature;
- have a formally stated and approved mission;
- use and interpret objects and/or a site for the public presentation of regularly scheduled programs and exhibits;
- have a formal and appropriate program of documentation, care, and use of collections and/or objects;
- carry out the above functions primarily at a physical facility/site;
- have been open to the public for at least two years;
- be open to the public at least 1,000 hours a year;
- have accessioned 80 percent of its permanent collection;
- have at least one paid professional staff with museum knowledge and experience;
- have a full-time director to whom authority is delegated for day-to-day operations;
- have the financial resources sufficient to operate effectively; and
- demonstrate it meets the “Characteristics of an Accreditable Museum.”¹⁰

In the state of Florida, the AAM has accredited the:

- Bass Museum of Art (Miami Beach);
- Boca Raton Museum of Art;
- Bonnet House Museum & Gardens (Ft. Lauderdale);
- Fairchild Tropical Botanic Garden (Miami);
- Florida Holocaust Museum (St. Petersburg);
- Florida Museum of Natural History @ the University of Florida;
- Florida State University Museum of Fine Arts;
- Frost Art Museum @ Florida International University;
- Henry B. Plant Museum (Tampa);
- Henry Morrison Flagler Museum (Palm Beach);
- Historic Spanish Point Gulf Coast Heritage Association (Osprey);
- Historical Museum of Southern Florida (Miami);
- Jewish Museum of Florida (Miami Beach);
- John and Mable Ringling Museum of Art (Sarasota);
- Lowe Art Museum University of Miami (Coral Gables);
- Marie Selby Botanical Gardens (Sarasota);
- Mel Fisher Maritime Heritage Society (Key West);
- Miami Art Museum;
- Miami Museum of Science ;
- Museum of Art (Ft. Lauderdale);
- Museum of Contemporary Art (North Miami);
- Museum of Discovery and Science (Ft. Lauderdale);
- Museum of Fine Arts (St. Petersburg);
- Museum of Florida History (Tallahassee);
- Museum of Science & History of Jacksonville;
- Museum of Science & Industry (Tampa);
- National Museum of Naval Aviation U.S. Dept of the Navy (Pensacola);
- Norton Museum of Art (West Palm Beach);

¹⁰ <http://www.aam-us.org/museumresources/accred/standards.cfm>.

- Orange County Regional History Center (Orlando);
- Orlando Museum of Art;
- Orlando Science Center;
- Pensacola Museum of Art;
- Polk Museum of Art (Lakeland);
- Salvador Dali Museum (St. Petersburg);
- Samuel P. Harn Museum of Art @ the University of Florida;
- Tallahassee Museum of History and Natural Science;
- Tampa Museum of Art;
- The Cummer Museum of Art and Gardens (Jacksonville);
- The George D. and Harriet W. Cornell Fine Arts Museum @ Rollins College (Winter Park);
- The Morikami Museum and Japanese Gardens (Delray Beach);
- The Museum of Arts & Sciences (Daytona Beach);
- The Society of the Four Arts (Palm Beach);
- The Wolfsonian-FIU @ Florida International University;
- University of South Florida Contemporary Art Museum;
- Vero Beach Museum of Art; and
- Vizcaya Museum and Gardens (Miami).¹¹

Effect of Proposed Changes

HB 125 amends s. 406.61, F.S., to permit institutions or organizations accredited by the American Association of Museums to convey plastinated bodies into or out of the state for exhibition and educational purposes without the consent of the Florida anatomical board if the institution or organization notifies the board regarding the duration and location of the exhibition at least 30 days before the intended conveyance and provides documentation that the bodies were legally donated for the purpose of plastination. The bill also makes technical changes to s. 406.61, F.S.

The bill provides an effective date of July 1, 2009.

B. SECTION DIRECTORY:

Section 1: Amends s. 406.61, F.S., relating to the conveyance of bodies.

Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

¹¹ <http://www.aam-us.org/museumresources/accred/list.cfm?mode=search>.

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments

Florida Association of Museums

The Florida Association of Museums has not taken a position on the bill.¹²

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

At its meeting on March 4, 2009, the Military & Local Affairs Policy Committee adopted an amendment which makes technical changes to the bill, and imposes an additional requirement that an accredited entity provide the anatomical board with documentation that bodies were legally donated for the purpose of plastinization.

¹² February 6, 2009, e-mail from Malinda J. Horton, Executive Director, Florida Association of Museums.